

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON

NEXRF CORP.,

Plaintiff,

v.

ARISTOCRAT INTERNATIONAL PTY LTD.,
PRODUCT MADNESS, INC., and BIG FISH
GAMES, INC.,

Defendant.

Case No. 2:21-cv-00798-RSM

**STIPULATION AND ORDER OF
DISMISSAL**

**NOTE ON MOTION CALENDAR:
August 11, 2021**

WHEREAS, Plaintiff NEXRF Corp. (“NEXRF”) filed a Complaint for Patent Infringement (“Complaint”) on June 11, 2021 (ECF No. 1) alleging infringement of U.S. Patent Nos. 8,747,229, (“the ’229 Patent”), 8,506,406, (“the ’406 Patent”), and U.S. Patent No. 9,646,454 (“the ’454 Patent”);

WHEREAS, NEXRF and Defendants Aristocrat International Pty Ltd., Product Madness, Inc., and Big Fish Games, Inc. (collectively, “Defendants”), filed a Stipulation For Extension of Time to answer or otherwise respond to the Complaint, which the Court granted on July 7, 2021;

WHEREAS, Defendants’ current due date to answer or otherwise respond to the Complaint is August 11, 2021;

WHEREAS, on July 7, 2021, following briefing, the Honorable Miranda M. Du of the U.S. District Court for the District of Nevada in *NEXRF Corp. v. Playtika Ltd., et al.*, Case No. 3:20-

1 cv-00603-MMD-CLB (“Playtika Action”) issued an order finding all claims of the ’229 patent,
2 the ’406 patent, and the ’454 patent invalid under 35 U.S.C. § 101 as being directed toward patent-
3 ineligible subject matter (*see* ECF 19, Notice of Supplemental Authority);

4 WHEREAS, on July 12, 2021, NEXRF filed a Notice of Appeal with the U.S. Court of
5 Appeals for the Federal Circuit in the Playtika Action (ECF No. 60 in the Playtika Action);

6 WHEREAS, in the interests of judicial economy and efficiency, and to avoid the need for
7 multiple courts to decide overlapping legal and factual issues, the parties to the present action seek
8 to enter a stipulated order of dismissal and final judgment regarding all claims asserted by NEXRF
9 in accordance with Judge Du’s order, such that the present case and the Playtika Action may be
10 heard by the Federal Circuit at the same time;

11 NOW, THEREFORE, NEXRF and Defendants, by and through their respective counsel of
12 record, hereby stipulate and respectfully request that the Court order the following:

13 1. Defendants are deemed to have made a Rule 12(b)(6) motion to dismiss,
14 incorporating by reference the 35 U.S.C. § 101 arguments made in the Playtika parties’ Motion to
15 Dismiss in *NEXRF Corp. v. Playtika Ltd., et al.*, Case No. 3:20-cv-00603-MMD-CLB (D. Nev.)
16 (attached hereto as Exhibit A). NEXRF is deemed to oppose Defendants’ motion on the bases
17 stated in NEXRF’s opposition to the Playtika parties’ Motion to Dismiss (attached hereto as
18 Exhibit A). In consideration thereof, the Court hereby grants Defendants’ Rule 12(b)(6) motion to
19 dismiss as follows: the Court adopts Judge Du’s order of July 7, 2021 granting the Playtika parties’
20 Motion to Dismiss in *NEXRF Corp. v. Playtika Ltd., et al.*, Case No. 3:20-cv-00603-MMD-CLB,
21 for purposes of entering a final and appealable dismissal and judgment. Based on Judge Du’s order,
22 all claims of the ’229, ’406 and ’454 patents are invalid under 35 U.S.C. § 101. All briefing and
23 arguments relating to the Motion to Dismiss in the Playtika Action shall be deemed to be part of
24 the record in the present action, to the extent that they relate to the patent-eligibility of the ’229
25 patent, the ’406 patent, and the ’454 patent under 35 U.S.C. § 101.

2. Nothing in this stipulated dismissal order shall be construed as an admission by NEXRF as to the correctness of Judge Du's order in the Playtika Action, or diminishing NEXRF's rights of appeal.

3. Nothing in this stipulated dismissal order shall be construed as a waiver of any other motions, objections, or arguments that any Defendant may have under Federal Rule of Civil Procedure 12 or otherwise, including without limitation any arguments relating to jurisdiction or venue and any additional arguments for dismissal for failure to state a claim.

4. All claims by NEXRF against Defendants in this action are dismissed.

5. This order shall constitute a final and appealable order and judgment.

IT IS SO STIPULATED.

Dated: August 11, 2021.

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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED this 13th day of August, 2021.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE